

Sean Flynn
SBN 24074214
Fears | Nachawati PLLC
4925 Greenville Ave, Suite 715
Dallas, TX 75206
sflynn@fnlawfirm.com;
214.890.0711 (Phone)
214.890.0712 (Facsimile)
ATTORNEY FOR NATHANIAL BROOKS, CREDITOR

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	Case No: 14-30699-hdh11
	§	
BUFFET PARTNERS, L.P.	§	Chapter 11
	§	
DEBTOR	§	
_____	§	
NATHANIEL J. BROOKS JR.	§	HEARING DATE: _____
MOVANT	§	HEARING TIME: _____
vs.	§	
	§	
BUFFET PARTNERS, L.P., DEBTOR	§	
	§	
RESPONDENTS	§	

MOTION OF NATHANIEL J. BROOKS JR. FOR RELIEF FROM AUTOMATIC STAY

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT U.S. COURTHOUSE, 1100 COMMERCE STREET, IN DALLAS, TEXAS BEFORE CLOSE OF BUSINESS ON MARCH 10, 2014, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY

RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO THE MOVANT CAN BE ADEQUATELY PROTECTED IF THE STAY IS TO BE CONTINUED.

TO THE HONORABLE JUDGE HALE, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Nathaniel J. Brooks (“**Creditor**”), a creditor of the Debtor, and files this, his Motion for Relief from Automatic Stay (“**Motion**”), and in support thereof would respectfully show the Court as follows:

1. This is a proceeding under Bankruptcy Rules 4001 and 9014 seeking relief under § 362(d) of the Bankruptcy Code. This proceeding constitutes a core proceeding as statutorily defined in 28 U.S.C. Section 157(b)(2)(G).
2. Creditor entered into a release, settlement, and indemnity agreement with Debtor as a result of personal injuries arising on or about July 9, 2012.
3. Creditor is a minor and was represented by his parents, Nathaniel Brooks Sr. and Briana Bickerson in this agreement.
4. This agreement was set to be finalized through an act of law in state court on February 5, 2014.
5. Debtor had filed for Chapter 11 bankruptcy protection on February 4, 2014 resulting in an automatic stay on the state court proceedings.

WHEREFORE, PREMISES CONSIDERED, Creditor respectfully requests that this Court grant an Order lifting the automatic stay as to Creditor so that Creditor may properly continue his collection proceedings against Debtor in state court and in the full amount allowable under Debtor’s applicable insurance policy. Since Creditor cannot be paid through Debtor’s Chapter 11 plan and cannot be adequately protected, Creditor requests that Rule 4001(a)(3) not be applicable in this case due to the lack of adequate protection. Creditor further prays that it

have such other and further relief, at law or in equity, to which it may show it to be justly entitled.

Respectfully submitted,

/s/ Sean Flynn

Sean Flynn

SBN 24074214

Fears | Nachawati PLLC

4925 Greenville Ave, Suite 715

Dallas, TX 75206

docprep@fnlawfirm.com

214.890.0711 (Phone)

214.890.0712 (Facsimile)

ATTORNEY FOR CREDITOR

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that I or a member of this firm acting on my behalf have sent communication to Debtors counsel at Baker & McKenzie LLP and Matthews, Stein, Shiels, Pearce, Knott, Eden & Davis and informed them that this Motion was being filed. We attempted to speak with someone at Debtor's attorneys' office but were unable to do so.

- ☐ No agreement was reached.
- ☐ Debtor's attorney advised that this Motion would not be opposed.
- ☐ Debtor's attorney advised that this Motion would be opposed.
- X We were unable to get a response from Debtor's attorney.

Signed,

/s/ Sean Flynn

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion was served on or near the date that the foregoing Motion was filed, either via United States First Class mail service or the Court's electronic noticing system to all of the parties in interest listed below and/or listed on any attached Mailing Matrix:

Debtor(s):

Buffet Partners, L.P.

2701 E. Plano Parkway, Suite 200

Plano, TX 75074

Debtor's Attorneys:

John E. Mitchell & Rosa A. Shirley
Baker & McKenzie LLP
2001 Ross Ave., Suite 2300
Dallas, TX 75201

Robert J. Davis
Matthews, Stein, Shiels, Pearce, Knott, Eden & Davis L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

United States Trustee:

1100 Commerce St, Rm 9C60
Dallas, TX 75242

Respectfully submitted,

/s/ Sean Flynn

Sean Flynn